

AGREEMENT STATE ANNUAL MEETING SUMMARY FOR KENTUCKY

DATE OF MEETING: JUNE 11, 1998

ATTENDEES:

NRC

Richard L. Woodruff, RSAO, Region II
Lance Rakovan, ASPO, OSP

STATE

John Volpe, Ph.D., Manager, Radiation Health & Toxic Agents Branch
Vicki, Jeffs, Supervisor, Radiation Materials Section
Sue Osborne, Radiation Materials Section
Gary (Mike) Cleaver, Radiation Materials Section

DISCUSSION:

A meeting was held with the Kentucky representatives on June 11, 1998, in Frankfort, Kentucky. The topics listed in NRC letter dated May 1, 1998, to Dr. Volpe were discussed. Details for each area are discussed below.

Action on Previous Review Findings

The previous IMPEP review was conducted during the period of April 15-19, 1996. During this review, recommendations and suggestions were made to the State concerning the following indicators:

1. The review team suggests that the Commonwealth consider obtaining necessary statutory authority to apply civil penalties as an additional enforcement option to supplement their enforcement efforts. (Section 3.4)

Current Status Following the 1996 IMPEP, the program proposed statutory changes to their Radiation Control Act that would add the authority for the assessment of civil penalties. The State's Legislative Research Commission subsequently determined that Section 211.990 had been changed by the State Legislature on July 14, 1992 to provide for civil penalty provisions including appropriate schedules for fines and other penalties, and that additional changes were not needed.

This recommendation should be closed at the next IMPEP review.

2. The review team recommends that the Commonwealth maintain its policy of annual supervisory accompaniments of all inspectors. (Section 3.4)

ENCLOSURE

Current Status The State responded in their August 20, 1996 letter that annual accompaniments of inspectors would be conducted. During the annual meeting, the program managers related that annual accompaniments were being performed on schedule.

This recommendation should be closed at the next IMPEP review.

3. The review team recommends that the Commonwealth determine the specific isotope in all incidents rather than assuming the source to be NARM. (Section 3.5)

Current Status The State responded in their August 20, 1996 letter that the specific isotope would be determined during the evaluation of incidents. During this annual meeting, program managers related that this action was being carried out, and that the program has plans to purchase another portable multiple channel analyzer during the upcoming year.

This recommendation should be closed at the next IMPEP review.

4. The review team recommends that the RCB continue with their plan to reassess all previously issued SS&D sheets, under their regulatory jurisdiction to assure that the files contain all current background information and drawings applicable to the device safety review and to verify and document that GL devices meet the current dose requirements. This is a recommendation from the 1995 review visit. (Section 4.2)

Current Status The program managers related during the meeting that one device file has been under review by the staff and as soon as the review process is completed the file will be updated. The Program Manager related that the other device reassessments and reviews (approximately 9) had been placed on a lower priority for completion due to other inspection and licensing tasks of higher priorities. He also related that if health and safety issues were identified on any of the devices, then priorities would be reassessed as appropriate.

Program Strengths and/or Weaknesses

In general, the Kentucky representatives related that their program had adequate administrative support, legislative support, stable sources of funding, good legal support, good laboratory support, and fully trained staff. No performance type weaknesses were identified by NRC during this meeting.

Specific areas were discussed as follows:

1. The Program Manager related that the program has good radiation survey equipment and plans to add an updated portable multichannel analyzer during this next fiscal year. The Program Manager serves as the Radiation Safety Officer for the Division of Laboratory Services, and provides technical advice to the laboratory as needed.
2. The Manager related that the program has upgraded their computers and the Cabinet has an intranet system for tracking and communication purposes within the State. However, the program still utilizes a contractor for the tracking of material licenses, expiration dates, licensing actions, and inspection data. The year 2000 compliant issue was also discussed.
4. The Program Director related that the materials program has no inspection or licensing backlogs at this time. However, as noted above, the reassessment and review of the sealed source and devices has been given a lower priority, and was not completed as scheduled following the 1996 review.
5. All of the current materials staff were reported to be trained and qualified to perform independent inspections and licensing actions.
6. The program lost one experienced person since the last review. The position was filled, but the new individual recently moved to California and went to work for the California Agreement State program. The program manager related that the position would be filled as soon as possible. At the time of the meeting, a position register had not been requested from the Personnel Office, and the Program Manager did not know if any names were on the register. We discussed the impact that staffing level has on program performance and the previous difficulties the program has experienced in filling vacancies which were attributed in part to the low entry level salaries, and the salary ranges for experienced personnel and their supervisors.
7. The program manager proposed on May 8, 1998 that the Cabinet increase the fees for materials licenses to a level between 20 and 50 percent of those charged by NRC. The increase is viewed by the program managers as needed to support the program and to prevent the continued drain of experienced and trained staff. Action on this proposal is pending.
8. All of the IMPEP Indicators were discussed. During the discussion of the Technical Quality of Licensing Indicator, the Materials Section Supervisor requested a copy of the NUREG-1556, Volume 5. This document was mailed to the State following the RSAO's return to the Region II office. No further action required.

Although there were no performance issues identified during the meeting, the delay in the schedule for the sealed source and device reassessments is of concern. This performance related task is directly associated with the ability of the State to fill and maintain vacant positions with qualified personnel and in a timely fashion.

Status of Program and/or Policy Changes

There have been no significant changes in the organizational structure of the Radiation Health and Toxic Agents Branch since the 1996 IMPEP review. The Branch is headed by the Manager, John A. Volpe, Ph.D, and has two major technical areas: Radiation Materials Section; and the Radiation Producing Machines Section. The Branch is organized under the Division of Public Health Protection & Safety, Kentucky Department of Health. The laboratory services are provided out of the Division of Laboratory Services.

The workload of the Materials Section remains constant with 396 specific licenses, of which 18 licenses are considered to be major licenses. All materials licensing and inspections are performed out of the Frankfort office.

No major changes in the staffing plan are planned at this point.

Impact of NRC Program Changes

The NRC representatives discussed NRC program changes that could impact the State, such as the 10 CFR Part 35 revision, and the current status of NRC's policies involving decommissioning of formerly licensed sites and NRC's training program.

In response to the issues, the State representatives related that they did not expect the decommissioning of the one former NRC site to have a significant impact on the program, and that the State would adopt regulations as needed after 10 CFR Part 35 has been revised.

On another issue involving the external regulation of certain Department of Energy (DOE) facilities by NRC, the Program Manager discussed the letter he had written to Chairman Jackson on April 21, 1997 expressing his views on this issue. The Chairman responded to Dr. Volpe by letter dated June 13, 1997, relating that the issues would be referred to a Task Force for consideration, and discussing efforts to coordinate NRC's approach with the affected States. During this meeting, the Program Manager again expressed the views that contractors and subcontractors at DOE facilities undergoing environmental restoration/cleanup should be regulated (licensed) by NRC or the respective Agreement State.

Internal program audits and self-assessments.

The managers reported that self-assessments were being accomplished through the use of a "Bench marking" type of program. For this evaluation, the program considers the types of licensing and inspection activities needed, number of personnel for these activities, time required for each type of activity, time utilized for each complete activity, and how to improve on the performance. The benchmark program also compares the Kentucky materials program with selected materials programs in other States, and compares the fees charged by the respective selected States.

All licensing actions and inspection reports receive at least one level of supervisory review. The merits of conducting a self review utilizing the performance indicators utilized by the IMPEP program were discussed.

Status of Allegations Previously Referred

The NRC allegation program was discussed in general with the State representatives. The Program Manager related that Kentucky has experienced an increased number of allegations, that allegations are processed on a case-by-case basis, and that follow-ups are conducted as needed. A review of the allegations referred to the State by the NRC Region II office indicated that there was only one outstanding referral to the State that needed a reply from the radiation program. The Program Manager related that the State's assessment of the allegation had been completed, and a report was in preparation. In general the State has been very responsive to the Regional requests when replies were needed to close out the allegations.

Nuclear Material Events Database (NMED) Reporting

A general discussion was held with the representatives concerning the NMED reporting system. Prior to this annual meeting, the RSAO prepared a report of events that had been placed in the NMED system, and the RSAO discussed the mechanism for reporting events, what events to report, the timeliness of reporting, and the revised Event Reporting Handbook that was developed. The Materials Section Supervisor related that the new handbook had been received.

No issues were identified concerning the reporting of events.

Compatibility of State Regulations

The new compatibility policy was discussed in general with the State representatives, including the OSP's procedures for reviewing proposed State regulations. Regulation amendments needed for adequacy and compatibility were discussed. Kentucky regulations have been adopted up to the "Clarification of Decommissioning Funding Requirements" Parts, 30, 40, 70, and 72 amendments (60 FR 38235) that will be needed by November 24, 1998. In addition, Kentucky has adopted the "Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials: Clean Air Act" Part 20 amendment (61 FR 65120) requirements needed by January 9, 2000; and the "Criteria for Release of Individuals Administered Radioactive Material" Parts 20 and 35 amendments (62 FR 4120) needed by June 27, 2000. These regulations were adopted by Kentucky on November 14, 1997.

We discussed the need for adoption of the "Clarification of Decommissioning Funding Requirements" (60 FR 38235) amendment that is needed by November 24, 1998. The State representatives related that they were not aware of the need for this amendment, but the rule adoption process would be initiated by the end of the month, and requested an updated Chronology of Amendments. The RSAO provided the State with an updated chronology during the meeting, and upon the return to the Region II office, a diskette was mailed to the State with a section by section breakdown for each of the Federal Register notices that need to be considered by the State.

The RSAO confirmed that the program is receiving NRC regulation changes as published and distributed, and the availability of the regulations on the NRC bulletin board was discussed.

Schedule for the Next IMPEP Review

The State was informed that the next Kentucky review is currently scheduled for FY 2000, and that the State should consider the use of the IMPEP indicator criteria as a mechanism for self

evaluation prior to the IMPEP.

CONCLUSION:

The Kentucky program has good managers, equipment, and trained, experienced staff. With the appropriate filling of the vacant position, the program should have the resources to remain adequate to protect public health and safety, and compatible under the IMPEP criteria.

ACTION ITEMS: None.